

MICHAEL B. KRATVILLE P.C.

A T T O R N E Y S

Michael B. Kratville

Terry L. Newquist
LEGAL ASSISTANT

June 2, 2005

Federal Election Commission
999 E St.
Washington, DC 20463

RE: Matter of Sarpy Elephant Club and Pat Shannon, MUR #5658

Dear Sir or Madam,

Let me respond to each of the allegations raised by Mr. Strawn (on behalf of the Sarpy County Republican Party) and

1. The Sarpy Elephant Club has neither registered with the FEC nor reported the money spent because federal law does not govern this case for several reasons.

First, a Nebraska non-federal legislative race is not within the purview of federal law as defined in 2 U.S.C. 431(3), 2 U.S.C. 431(9), and 2 U.S.C. 431(20)(B).

Second, the Club is not a political committee as defined in 2 U.S.C. 431(4) because it did not spend \$1000 in a year. The enclosed ad invoice is for \$315 and that was the only expenditure for the year.

Third, even if this was a federal race and even if this was a political committee under the above-cited federal law, it would be exempt and not covered by federal law pursuant to 2 U.S.C. 431(8)(B)(v and ix).

2. The materials in question did not use a Congressman's name and likeness to promote the election of state candidates. The flier in question listed several candidates under the heading of "Conservative Ticket" including the Congressman, President Bush, and the names of two local candidates. It is agreed that all of the candidates listed did not know that they would be listed on the ad nor did they consent to the placement of their names on the ad.

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The flawed thinking of Mr. Strawn and JL Spray that Congressman Lee Terry's name being listed on the "Conservative Ticket" ad published by the Sarpy Elephant Club is tantamount to an endorsement of a candidate in a non-partisan state race is laughable and has no regard for the intelligence of the voters. To suggest that placing a Congressman's name on a voter information sheet/ad is an endorsement by the Congressman of anyone in a state legislative race is to suggest that the public is not smart enough to understand that being listed on a piece of paper is not an endorsement by the candidates on it of the other candidates listed. By that flawed and dangerous thinking, it would mean that Bush supported Cornett and that Cornett was supporting Bush; two unsubstantiated assumptions.

We are quite sure that none of the candidates listed on the "Conservative Ticket" ad published by the Sarpy Elephant Club considers the other persons listed to be endorsing them and we would ask that the FEC contact each of the candidates listed to determine if any of the candidates has as dim a view of the voters as do Mr. Strawn and JL Spray.

There is no violation of federal law for the placement of candidate names on an ad without consent.

3. Pat Shannon in his individual capacity has no legal responsibility under federal law for the actions of a non-profit entity.

Thus, we ask that the complaint be dismissed.

But in addition to this matter being dismissed, we hereby request that this matter be turned over to the Justice Department for criminal prosecution because the complaint is not only without any legal merit but was also brought for an improper purpose, namely to harass Pat Shannon. The current head of the Nebraska State Republican Party (Mark Quandahl) is the current law partner of Kirk Brumbaugh who ran against Pat Shannon and is currently engaged in litigation as the result of that campaign.

Forgetting the obvious conflicts of interest in this situation, filing meritless complaints violates federal law and the Justice Department should investigate and then seek indictments against all persons associated with the filing of these complaints.

Because this response is essentially a legal argument and not a discussion of facts (other than the enclosure), there was no need to have this document placed under oath.

If there are any further documents which you seek from either of my clients, please let me know at once.

Very truly yours,



Michael B. Kratville

Attorney at Law

MBK: tn

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Suburban Newspapers, Inc.

Advertising Invoice

TO: Sarpy Elephant Club	FROM RETAILER: Suburban Newspapers C/o Paul Swanson
ADDRESS: 3417 East Dutchman Circle	ADDRESS 604 Fort Crook Road North
Bellevue, NE 68123	CITY Bellevue STATE NE ZIP 68005
	DATE 10/21/04

STATEMENT

Date	Description	Charges
10-27-04	Political display ad for Conservative Ticket	\$315.00
10-27-04	Political display ad for Chuck Fredrick	\$126.00
PLEASE NOTE This is a memorandum statement reflecting the exact lowest net rate		\$441.00

*Pay last amount
in this column*

Suburban Newspapers, Inc.

604 Fort Crook Road North, Bellevue, NE 68005

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FEDERAL ELECTION COMMISSION
Office of General Counsel
999 E Street, NW
Washington, DC 20463

STATEMENT OF DESIGNATION OF COUNSEL
Please use one form for each Respondent/Witness
FAX (202) 219-3923

MUR: 5658

COUNSEL: Michael B Kratville

FIRM: Michael B Kratville, PC

ADDRESS: 11920 Burt St Ste 145 Omaha, NE 68154

TELEPHONE - OFFICE: (402) 391-5153

FAX: (402) 393-0629

The above-named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

June 1, 2005
Date


Signature

Personally
Title

RESPONDENT/WITNESS NAME (PRINT): Patrick M Shannon

MAILING ADDRESS: Bellevue, NE 68123

TELEPHONE - HOME: ()

OFFICE: ()

Information is being sought as part of an investigation being conducted by the Federal Election Commission and the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) apply. This section prohibits making public any investigation conducted by the Federal Election Commission without the express written consent of the person under investigation



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June 1, 2005
Date

[Signature]
Signature

President
Title

RESPONDENT/WITNESS NAME (PRINT): Sarpy Elephant Club, Inc

MAILING ADDRESS: 3417 E Dutchman Cir Bellevue, NE 68123

TELEPHONE - HOME: ()

OFFICE: (402) 898-0561

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FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL